

**REQUEST FOR PROPOSAL
THE STATE BAR OF CALIFORNIA**

LAWYERS ASSISTANCE PROGRAM VIDEO TAPES

This document is a Request for Proposal ("RFP") for production of a set of up to six (6) videotapes to inform the California judiciary, its staff, and all members of the State Bar about the existence and benefits of the Attorney Diversion and Assistance Program ("Lawyers Assistance Program"), established by the California Legislature as §§ 6230 *et seq.* of the California Business and Professions Code.

Please submit five copies of your proposal in a sealed envelope no later than October 23, 2002, at 5:00 p.m. All responses to the Request for Proposal shall be submitted to:

The State Bar of California
180 Howard Street
San Francisco, CA 94105
Attn: Starr Babcock

I. INTRODUCTION

The State Bar of California, created in 1927 by the Legislature and designated as a judicial branch agency by the California Constitution in 1966, is a public corporation within the judicial branch of state government. In accordance with California law and the State Bar's procurement policies, contracts for an aggregate amount in excess of \$50,000 are subject to competitive bidding. In addition, the Bar, as a governmental agency, typically receives governmental pricing and contract terms and conditions.

Established by California Business and Professions Code §6230, the "Lawyers Assistance Program" (and hereinafter referred to as "the LAP"), seeks to create "ways and means to identify and rehabilitate attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness."

In accomplishing this goal, the State Bar has been instructed to engage in outreach activities, including development of "materials...informing all members of the State Bar of the [LAP] program's existence and benefits...working in coordination with the judicial branch to inform the state's judges of the program's existence and availability as a disciplinary option..." (Cal. Bus. & Prof. Code, §6236).

The State Bar is now requesting proposals to create up to six (6) videotapes to serve this purpose.

II. GENERAL INFORMATION

A. Submission Requirements

The submission requirements for the RFP are detailed below. Please submit five (5) copies of your response. Any submission will constitute an irrevocable offer for thirty (30) days following the deadline for its submission.

Responses must contain the following information:

1. Qualification statement of bidder, including:
 - a. description of experience;
 - b. samples of similar projects;
 - c. resumes of project director and other key staff (*e.g.*, writer, producer, director) proposed to work on project; and
 - d. name, address, telephone number, e-mail, and Social Security number or Federal tax ID number.
2. Demonstration of responsibility, including proof of financial solvency and stability (*e.g.*, balance sheets and income statements for two years).
3. References (at least four including contact name and phone number) from organizations that have used your services for similar projects.
4. Description of resources available over the next six (6) months, based on other expected work.
5. A written proposal describing the methodology, techniques, and plans for accomplishing the required work, including a detailed project plan, work breakdown, timeline, and deadlines for all tasks.
6. A list of all cost elements. See Attachment B for an example of a suggested format. Please indicate three bid estimates: one, if only professional actors are used; another, if only State Bar-furnished actors are used; and a third if both professional actors and State Bar-furnished actors are used.
7. The bid should cover all costs and compensation, and should provide a fully detailed breakdown of all costs for professional services, labor, materials, incidentals and any other costs.
8. Evidence that bidder, if a corporation, is in good standing and qualified to conduct business in California, and copies of professional certifications and other credentials.

B. Rejection of Proposals

The State Bar reserves the right to reject any or all submissions for any reason without incurring any cost or liability whatsoever. In addition, the State Bar reserves the rights to award multiple contracts or a contract for only a portion of the services described herein. This RFP is in no way an agreement, obligation or contract and the State Bar shall have no responsibility for any cost of preparing a proposal. All proposals will be reviewed for completeness of the submission requirements. If a proposal fails to meet a material requirement in the Request for Proposal, or if it is incomplete or contains irregularities, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with the requirements in the RFP.

Immaterial deviations may cause a bid proposal to be rejected. The State Bar may or may not waive an immaterial deviation or defect in a proposal. The State Bar's waiver of an immaterial deviation or defect will in no way modify the RFP or excuse a bidder from full compliance with solicitation document specifications.

All bids may be rejected in any case where it is determined that the proposals are not really competitive, or where the cost is not reasonable.

Proposals that contain false or misleading statements may be rejected if in the State Bar's opinion the information was intended to mislead the State Bar regarding a requirement of the RFP.

C. Evaluation Process

An evaluation team will review in detail all proposals that are received to determine the highest scored bidder ("HSB").

The State Bar reserves the right to determine the suitability of proposals on the basis of a proposal's meeting administrative requirements, technical requirements, the review team's assessment of the quality and performance of the service proposed, and cost.

During the evaluation process, the State Bar may require an interview with any bidder to answer questions with regard to the bidder's proposal, or for any other reason. Failure of a bidder to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

The following weighted criteria will be used in reviewing and comparing the proposals and in determining the HSB.

1. Responsiveness of proposal to requirements described in the RFP, including whether bidder has agreed to the contracting requirements in Section III of this RFP (10%);

2. The quality and performance of the service to be provided by the bidder, including responsiveness and quality of customer service (20%);
3. The ability, capacity, financial stability, and skill of the bidder to perform the contract, including relevance and quality of previous work, and the ability of the bidder to perform the contract within the time specified (25%);
4. The character, integrity, reputation, judgment, experience, and efficiency of the bidder, including the quality of the bidder's performance on previous contracts with the State Bar, if any (15%);
5. Cost and compensation required. All figures entered on the cost sheets must be clearly legible (30%).

D. Award and Execution of Contract

Subject to the State Bar's right to reject all bids and to award multiple contracts or contracts for only a portion of the services described herein, the HSB will be awarded the contract.

If any action on this RFP is taken by the State Bar, notice of such action will be posted at the State Bar's offices at 180 Howard Street, San Francisco, CA and sent by facsimile and regular mail to all bidders on . It is anticipated, but not definitely determined, that final selection of the highest scored bidder will be made by Tuesday, November 12, 2002, at 5 p.m. The evaluation team will select a winning proposal subject to approvals by the Board of Governors. Upon selection, the winning bidder and the State Bar shall enter into negotiations for a contract to perform the services.

Questions regarding the State Bar's contract award in connection with this RFP, or on any related matter, should be addressed in writing to Starr Babcock.

E. Project Management

The Project Manager is:

Starr Babcock
The State Bar of California
180 Howard Street
San Francisco, CA 94105
(415) 538-2070
Starr.Babcock@calbar.ca.gov

F. Errors in the RFP

If a bidder submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the bidder should immediately provide the State

Bar with written notice of the problem and request that the RFP be clarified or modified. Without disclosing the source of the request, the State Bar may modify the document prior to the date fixed for submission of proposals by issuing an addendum to all bidders to whom the RFP was sent.

If prior to the date fixed for submission of proposals, a bidder submitting a proposal knows of or should have known of an error in the RFP but fails to notify the State Bar of the error, the bidder will bid at its own risk, and if the bidder is awarded the contract, it will not be entitled to additional compensation or time by reason of the error or its later correction.

G. Questions Regarding the RFP

If a bidder's question relates to a proprietary aspect of its proposal or bid and the question would expose proprietary information if disclosed to competitors, the bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the bidder must submit a statement explaining why the question is sensitive. If the State Bar concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the State Bar does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the bidder will be notified.

If a bidder submitting a proposal or bid believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the bidder may submit a written request that the RFP be changed. The request must set forth the recommended change and the bidder's reason for proposing the change. Any such request must be submitted to the State Bar no later than **three (3) days** after receipt of the RFP, but in no event later than five days before the due date for submission of proposals.

H. Addenda

The State Bar may modify the RFP prior to the date fixed for submission of proposals by faxing an addendum to the bidders to whom the RFP was sent. If any bidder determines that an addendum unnecessarily restricts its ability to bid, it must notify the State Bar no later than **one (1) day** following the receipt of the addendum.

I. Withdrawal and Resubmission/Modification of Proposals

A bidder may withdraw its proposal at any time prior to the deadline for submitting proposals by notifying the State Bar in writing of its withdrawal. The notice must be signed by the bidder. The bidder may thereafter submit a new or modified proposal, provided that it is received at the State Bar no later than the deadline. Modification offered in any other manner, oral or written, will not be considered. Proposals cannot be changed after the evaluation process begins.

J. Protest Procedure

A bidder submitting a proposal may protest the award if it meets all the following conditions:

1. The bidder has submitted a proposal which it believes to be the most responsive bid, under the criteria set forth above;
2. The bidder believes that its proposal meets the State Bar's administrative and technical requirements, proposes services of proven quality and performance, and offers a competitive cost to the State Bar; and
3. The bidder believes that the State Bar has incorrectly selected another bidder submitting a proposal for award.

A bidder qualified to protest should contact Bill Brauer, Procurement Officer at the State Bar. If Mr. Brauer is unable to resolve the protest to the bidder's satisfaction, the bidder should file a written protest **within five (5) working days of the contract award notification**. The written protest must state the facts surrounding the issue and the reasons the bidder believes the award to be invalid. The protest must be sent by certified or registered mail or delivered personally to:

Director of Finance
The State Bar of California
180 Howard Street
San Francisco, CA 94105

A receipt should be requested for hand-delivered mail.

K. News Releases

News releases pertaining to the award of a contract may not be made without the prior written approval of the State Bar.

L. Disposition of Materials

All materials submitted in response to an RFP will become the property of the State Bar of California and will be returned only at the State Bar's option and at the expense of the bidder submitting the proposal or bid. One copy of a submitted proposal will be retained for official files and become a public record. However, any confidential material submitted by a bidder that was clearly marked as such will be returned upon request.

III. CONTRACTING REQUIREMENTS

Upon selection of a Vendor, the terms set forth in this RFP are to be embodied in an agreement ("Agreement") containing such additional covenants and other provisions as may be mutually acceptable.

The State Bar contemplates that, in addition to the terms described in this RFP, final agreement between the State Bar and the selected Contractor will include, but not be limited to, the following principal terms:

A. TIME OF ESSENCE

Time is of the essence with respect to Vendor's performance of the services to be provided in the final agreement. Subject to the State Bar's reasonable satisfaction with the services and product, payments will be made within forty-five (45) days of receipt of invoice for work completed.

B. WARRANTIES AND REPRESENTATIONS

Vendor will provide such warranties as the State Bar may reasonably require, in language approved by the State Bar General Counsel, including but not limited to warranties that: Vendor has the right to enter into and perform this Agreement; the rights granted to the State Bar by Vendor are free of all liens and claims of third parties; the services and product will not infringe on any rights, including but not limited to copyright of any third party and does not constitute a libel or slander; Vendor and Vendor's personnel possess the expertise, experience and resources to provide the services required under the Agreement in a diligent, timely and professional manner consistent with the highest standards of the industry; that no warranty will be subject to any disclaimer or exclusion of warranties or to any limitation of Vendor's liability under the Agreement.

C. PAYMENT

Payment terms will be specified in any agreement that may ensue as a result of this document. The State does not make any advance payment for services. Payment is normally made based upon completion of tasks as provided in the agreement between the state and the selected consultant/vendor.

D. EQUIPMENT, TOOLS, SUPPLIES

Vendor will supply all equipment, tools, supplies, offices, instrumentalities, transportation, support services and insurance required to perform the Services under the Agreement. The Vendor is not required to purchase, rent or hire any equipment, tools, supplies, offices, transportation, personnel, insurance or instrumentalities from the State Bar. The State Bar has no obligation whatsoever to provide any equipment, tools, supplies, offices, personnel, instrumentalities, transportation, support services or insurance required to perform services under the Agreement.

E. INDEMNITY OBLIGATIONS OF VENDOR

To the fullest extent permitted by law, the Vendor will agree to protect, indemnify, defend and hold the State Bar and the State Bar's Board of Governors, officers, committee members, employees, agents and representatives and each of their successors and assigns (the "Indemnities") entirely harmless from and against any and all claims, actions, demands, proceedings, liabilities, damages, judgments, fines, penalties, settlements, costs and charges, including, but not limited to, attorneys' fees and expenses, arising directly or indirectly from or in connection with (a) any breach of the Agreement, (b) any actual or alleged negligent act, negligent error or omission, intentional misconduct of, or violation of any law by Vendor, the Vendor's employees, sub vendors, agents, representatives or assigns (collectively, the "Vendor's Agents") in the performance or non-performance of the professional services required to be performed by the Vendor under the Agreement; or (c) the State Bar's enforcement of its rights under this indemnity provision.

In addition, Vendor will provide such indemnification as the State Bar may reasonably require, in language approved the State Bar General Counsel, including but not limited to indemnity against any cost or loss caused by: infringement of any copyright, trademark patent or other intellectual property; failure of any warranty made by Vendor; Vendor's failure to obtain any license or permit, or Vendor's violation of any law.

In the event both the State Bar and Vendor are named as defendants in the same civil action, and the State Bar determines that a conflict of interest exists between the parties, Vendor will agree to provide, at its own cost, independent counsel for the State Bar. The State Bar may, at its option, designate its Office of General Counsel as equal participating counsel in any litigation wherein the State Bar is defended by Vendor.

Vendor will agree that its obligations hereunder will survive the termination or expiration of the agreement.

F. INSURANCE OBLIGATIONS OF VENDOR

The Vendor will agree to provide and keep in full force and effect during the term of the Agreement, at the Vendor's own cost and expense, the following insurance policies for the joint benefit of the Vendor and the State Bar, with an insurer reasonably acceptable to the State Bar:

1. Commercial general liability insurance with a general aggregate limit (other than products/completed operations) of not less than Two Million Dollars (\$2,000,000.00); at least One Million Dollars (\$1,000,000.00) personal and advertising injury limit; at least One Million Dollars (\$1,000,000.00) premises and operations limit; at least One Million Dollars (\$1,000,000.00) each occurrence limit;

2. Comprehensive automobile liability insurance covering owned, leased, hired and non-owned vehicles with not less than One Million Dollars (\$1,000,000.00) combined single limit;
3. Workers' compensation coverage as required by law, together with employer liability coverage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence.

Vendor will provide the State Bar with true and correct copies of its insurance policies required above, and certificates of such insurance not later than the date of execution of the Agreement. Each such policy of insurance should name the State Bar as an additional insured and should state that such policy or policies will be primary and that any insurance carried by State Bar will be noncontributing with respect thereto. Each such policy of insurance maintained pursuant to the agreement should provide for thirty (30) days' prior written notice to the State Bar in the event of cancellation or reduction in coverage or amount. If Vendor fails to secure and maintain insurance policies complying with the provisions of the Agreement, the State Bar may secure the appropriate insurance policies and the Vendor would pay upon demand the cost of same to the State Bar or the State Bar may terminate the Agreement.

The Vendor must immediately notify the State Bar if the Vendor's commercial general liability insurance contains restrictive endorsements other than those restrictive endorsements normally included in the State of California. If the Vendor's commercial general liability insurance contains such restrictive endorsements, the Vendor will have five (5) business days to remove said restrictions. If the Vendor is unable to do so, the State Bar may terminate the Agreement in accordance with the Agreement, except that notwithstanding anything to the contrary, the State Bar will only be required to give the Vendor two (2) days' notice of such termination.

G. TERMINATION

1. **At Will.** The Agreement may be terminated by the State Bar, in its sole discretion, upon thirty (30) days' written notice to the Vendor. In the event of such termination not due to default by the Vendor under the Agreement, the Vendor's sole compensation will be for any product provided and services performed to the date of termination, together with reimbursable expenses, if any, then due pursuant to the Agreement; provided, however, that the Vendor will not be paid for any Services or reimbursable expenses associated with any work or Service which was not authorized by the State Bar pursuant to the Agreement.
2. **Default by Vendor.** The Agreement may be terminated by the State Bar upon seven (7) days' written notice to the Vendor in the event the Vendor is in default under any of the provisions of the Agreement. In the event the Agreement is terminated due to default by the Vendor, the Vendor will not be entitled to receive any compensation for Services performed or for any Reimbursable Expenses incurred and the State Bar will have the right to have the Services completed by other parties and the Vendor will reimburse State Bar for the actual costs to complete the Services in excess of the balance of the Fee and reimbursable expenses, if any, provided for in the Agreement.

Any such act by the State Bar will not be deemed a waiver of any other right or remedy of the State Bar, including, but not limited to, the State Bar's consequential damages caused directly or indirectly by the Vendor's default.

3. **Automatic Termination.** The Agreement will automatically terminate on the occurrence of any of the following events: (a) bankruptcy or insolvency of either party; (b) sale of the business of the Vendor; (c) material violations of federal, state or local laws, regulations or requirements; (d) expiration of the agreement.
4. **Availability of Funds.**

H. OWNERSHIP OF DOCUMENTS

All work product created by Vendor pursuant to the Agreement ("Work Product") and all rights thereto in the nature of copyright, trademark, patent and rights to ideas will be assigned to, and will become the property of the State Bar whether or not the work is completed. In the event of termination of the Agreement, or abandonment or suspension of work performed under the agreement, all Work Product and all such rights thereto existing as of the date of such termination, suspension or abandonment will be assigned to, and will become the property of the State Bar as of such date. The term "Work Product" will include, but not limited to, any and all plans, tapes, photographs, slides, studies, schedules, budgets, estimates, takes, and other work product and any services which have been or will be prepared by the Vendor, or under the Vendor's direction, pursuant to the Agreement. The Vendor will covenant, warrant and represent to the State Bar that the Vendor has the right to assign the copyright and the Work Product. The Vendor will refrain from disclosing any and all versions of plans to any third party without first obtaining the written consent of the State Bar. The Vendor will not use or permit a third party to use any of the Work Product without the written consent of the State Bar. The Vendor will agree to deliver to the State Bar within five (5) days after written request made by the State Bar, all or any portion of the Work Product, as may be set forth in the State Bar's request. The Vendor will be permitted to retain copies for information and reference.

The Vendor agrees that all Work Product and the copyright(s) thereto developed in the course of performing Services under this Agreement will be deemed "works made for hire" and will be the sole and exclusive property of the State Bar. Vendor will cooperate with and assist the State Bar in applying for, and in executing all assignments, releases or other documents reasonably necessary to obtain and vest in the name of the State Bar alone (unless the State Bar otherwise directs) any title, copyright or other statutory protection as the State Bar deems appropriate.

I. CONFIDENTIALITY AND PUBLICITY

Vendor will retain all confidential information in the strictest confidence and will neither use it nor disclose it to anyone without the prior written consent of the State Bar. Vendor will not issue any public announcements concerning the State Bar without the

prior written consent of the State Bar.

J. NONDISCRIMINATION

During the performance of this Agreement, Vendor will not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), sex or sexual orientation. Vendor will comply with the provisions of the Fair Employment and Housing Act (Government Code section 12900 et seq.) and applicable regulations promulgated hereunder (California Administrative Code, Title 2, section 7285.0 et seq.). Vendor will include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

K. ASSIGNMENT/SUBCONTRACTING

1. **Assignment.** The Vendor will not assign or transfer its interest, in whole or in part, under the Agreement, without the written consent of the State Bar, which consent may be granted or withheld in the sole and absolute discretion of the State Bar.
2. **Subcontracting.** The Vendor may subcontract with other qualified firms or individuals as required to complete all, or a portion of, the Services, subject to the prior written approval of the State Bar.

The Vendor will clearly describe the reason for using any sub vendors, the specific role each sub vendor will play in the Project, and the relationship between the Vendor and its sub vendor that will be maintained during the term of the Agreement. Any such proposed subcontract will be subject to the written approval of the State Bar prior to award of such subcontract by Vendor. No subcontract will be approved unless the Vendor provides a written guarantee that the Vendor's firm will be contractually obligated, by means of performance and payment bonding, to assume all responsibilities for the project and the insurance requirements set forth above.

L. INDEPENDENT CONTRACTOR

It is the express intention that Vendor is and independent contractor and not an employee, agent, joint venture or partner of the State Bar. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the State Bar and Vendor or between the State Bar and any assistant, employee or agent of Vendor, notwithstanding Vendor's use of any State Bar employees in producing the tape. Both parties acknowledge the Vendor is not an employee of the State Bar.

Vendor shall retain the right to perform services for others during the term of this

Agreement. Vendor shall produce the tape at such location and at such time(s) as Vendor shall decide. Vendor shall determine the method, details and means of producing the tape.

The State Bar shall have the right to make changes and approve the script and editing of the product; provided, however, that neither this provision nor anything in this Agreement shall be construed as creating the relationship of employer and employee between the State Bar and Vendor, its agents or employees.

M. GENERAL PROVISIONS

1. **Force Majeure.** Neither party will be deemed in default of the Agreement or any provision hereunder to the extent that any delay or failure in the performance of the obligations of such party (other than the payment of money) results from any significant and material causes beyond its reasonable control and without fault or negligence by such party. Examples of such causes include, but are not limited to, (1) acts of God or public enemy, (2) acts of the government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) embargoes, (9) earthquakes, and (10) unusually severe weather.
2. **Governing Law.** The agreement will be governed by the laws of the State of California.
3. **Attorneys' Fees.** In the event either party institutes any action or proceeding against the other party relating to the Agreement, the unsuccessful party in such action or proceeding will reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorneys' fees as fixed by the court. In addition to the foregoing award of attorneys' fees to the successful party, the successful party in any lawsuit on the Agreement will be entitled to collect or enforce the judgment. This provision is separate and several and will survive the merger of the Agreement into any judgment on the Agreement.
4. **Arbitration.** Any controversy between the State Bar and the Vendor arising out of the Agreement may, at the election of the State Bar, be heard by a referee pursuant to the provisions of the California Code of Civil Procedure section 638, et seq. The State Bar and the Vendor will attempt to agree upon a single referee who will then try all issues, whether of fact or law, and report a finding and judgment thereon. If the State Bar and the Vendor are unable to agree upon a referee, either party may seek to have one appointed, pursuant to the California Code of Civil Procedure section 640. The cost of such a proceeding will initially be borne equally by the State Bar and the Vendor. However, the prevailing party in such a proceeding will be entitled, in addition to all other costs, to recover their one-half contribution for the cost of the referee as an item of damage and/or recoverable costs. In the event of any

litigation between the State Bar and the Vendor, including, but not limited to, any referee procedure, involving or arising out of this Agreement, the prevailing party will be entitled to recover reasonable expenses, attorneys' fees and costs incurred, as more particularly set forth above.

5. **License.** In those instances where required, the Vendor represents and warrants that the Vendor holds a license, permit or other special license to perform the Services pursuant to the Agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license and will keep and maintain all such licenses, permits or special licenses in good standing and in full force and effect at all times while the Vendor is performing the Services pursuant to the agreement.

ATTACHMENT A

SCOPE OF PROJECT

I. Background

This information is included to enable bidders to visualize the final form of the required products so that they can better estimate what resources will be required to produce them.

Please note that the State Bar expects that the content of each of these 6 tapes will be substantially similar, since each addresses the same subject but for different audiences. This should enable the production company to repurpose a great deal of footage for multiple tapes.

However, the objectives for each tape will require that the tapes provide a slightly different message for the various audiences.

This attachment also includes the result of a preliminary meeting to determine the program design, objectives, texture, and appropriate content of the tapes for each audience. During that meeting, the participants decided that each tape required four primary elements. These included: Program Overview; How to Refer and When; Motivational Message; Additional Content.

The following sections provide:

1. Information about the Objectives for this set of tapes;
2. The audiences for each tape;
3. A description of the environment in which the tapes will be viewed;
4. Various suggested elements of tape design.

Following that are sections detailing the content considered most important for each audience:

Section A: Program Overview.

Section B: How to Refer and When.

Section C: Motivational Messages.

Section D: Other Content.

The State Bar also welcomes and encourages bidders' suggestions for alternate tape structure and design elements.

II. General Tape Information

A. Objectives

The objective of these tapes is to educate the audience about how to recognize impaired attorneys; what to expect from impaired attorneys; how to use the LAP as a disciplinary option

in handling impaired attorneys; ways in which the LAP can be a valuable resource to the judiciary, court staff, attorneys, and the judicial system as a whole.

After watching these tapes, viewers should be able to:

- *Recognize* the signs of an impaired attorney;
- *Understand* better some of the challenges judges and court staff may face from impaired attorneys;
- *Know* how impaired attorneys have been handled prior to creation of the LAP and how to handle them after the creation of the LAP;
- *Realize* when self-referral to the LAP would be in an attorney's own best interest;
- *Perceive* the benefits of the LAP in the courtroom, to the individual attorney and to the judicial system as a whole.

B. Audience(s)

There are six distinct audiences identified for these tapes:

- Lawyers who have been referred to the LAP
- Lawyers who refer other lawyers to the LAP
- Superior and appellate court judges
- Court executive officers and presiding judges
- Court staff
- The general public

C. Environment in which tapes will be viewed

The tape will be shown to recently appointed judges as part of a mandatory training session. It will also be shown to experienced judges as a continuing legal education program, or otherwise as viewings can be arranged. It will be shown to court staff in their workplace. It will also be shown to attorneys as part of a continuing legal education program and in other contexts as they represent themselves. It will be shown to the general public as part of the State Bar's continuing public outreach programs.

D. Suggested elements of program design

1. Structure

The tape will incorporate a variety of presentation methods. Two possibilities:

- Grabber (shocking and uncomfortable); introduction to the subject; narration, description of the tape, first broad presentation; courtroom sketch; judge/attorney/client discussion of sketch; narration, summary; motivational close.
- Courtroom sketch; discussion of problem and judges' available alternatives; illustrated narrative about results before LAP; judge's testimonial about LAP; illustrated narrative about origin, function and operation of LAP; replay sketch in segments to demonstrate use of LAP referral; replay the sketch showing results using LAP; motivational close.

The State Bar invites bidders to offer their own ideas about structure of the tape.

2. Content

a. General ideas

- Dramatization of the problem.
- Dramatization of the behavior.
- Dramatization of the effect on judge, lawyer, client and public attitude to the judicial system in the current disciplinary environment and as contrasted with the use of LAP.
- Graphic for rule of court and of professional conduct, standard of administration;
- Demonstrate a model for courts to handle referrals from judges to LAP.
- Show the hospital model: LAP is a professional medical model aimed at a disease process.
- Information about the legal bases for discipline and the judge's duty to lawyer, client and the judicial system.
- Benefits to judges: caseload and calendar control, protect staff and integrity of court.
- Show spiral of addiction process.
- Stress confidentiality.
- Motivational appeal.

b. Specific ideas

- Narration from real people with first-hand experience in the current disciplinary environment and/or with LAP.
- Testimonials from users of LAP.
- One or two courtroom or chambers scenes.

- Discussion among judges with a variety of backgrounds and opinions.
- Discussion focusing on the type of decision relevant to what happened in the sketch just seen;
- Some difference of opinion and skepticism among panelists, eventually overcome.
- Data and legal issues presented clearly and dispassionately by experts.
- Discussion/demonstration of how judges' blind spots might now affect their decision making, and how the LAP might aid in more informed decision-making.

c. Potential for narrators and experts: judges, court staff, attorneys, attorney clients, and medical and mental health professionals.

Bidders, additional content suggestions are welcome.

3. Texture

There are a variety of textures to be considered.

- “Grabber” section: Stark, perhaps black and white.
- Narration section: Colorful, fast-paced.
- Graphics section: Clear, with high production values.
- Courtroom and chambers sketches: Realistic, TV quality. Professional actors should be used as needed.
- Discussion sections: Brief, entertaining, and perhaps a little combative. They must keep the viewer's interest and provide pertinent practical information. They should be brief.

4. Style

The style of the tapes should alternate between instructional and motivational, and be appropriate to the intended audience.

5. Length

The suggested length for each tape is approximately 8 to 12 minutes, but longer or shorter will be considered if that will more effectively present the material.

6. Other Considerations

The State Bar welcomes and encourages bidder's suggestions for alternative tape structure and design elements.

III. Content

A. Program Overview Information (included in each tape):

1. Name of program – Lawyer Assistance Program (“LAP”).
2. Just A Phone Call - 1-866-436-6644.
3. Not part of the general discipline system - whether the lawyer is a self-referral or is referred.
4. Completely confidential for attorney and referrer.
5. May fulfill court executives, judges and presiding judges’ professional obligations.
 - Standards Of Administration
 - Rule Of Court
 - Rule Of Professional Conduct

6. Goal

- Recovery
- Good Health
- Early Intervention/Detection
- Damage Control
- Education

7. Medical Model

- This is being treated as a disease process
- Overall health and medical evaluation by qualified professionals in order to get into LAP
- So people know it’s “More than an AA group, people you work with will be professionals

B. When and How to Refer

1. When

A referral should be made when you know or have reason to believe that a lawyer is impaired. Impairment is not always easy to observe. One aspect of the illness itself is denial of its existence and a compulsion to hide it from the outside world.

There are, however, certain behavioral signs that suggest impairment. Among these are repeated absence or tardiness to meetings, hearings or trials; repeated erratic or self-harming behavior; repeated incidents of inappropriate or excessive demonstrations of anger; repeated rude or unnecessarily contentious behavior at trial; obvious failure to represent a client’s interest. *(Note that these are neither necessary nor sufficient conditions for impairment; other behaviors may indicate impairment, and these behaviors do not necessarily indicate impairment.)*

- A judge should refer when impairment behavior is observed in court or chambers; if a

member of his staff or another attorney or a client, friend or family member indicates that impairment behavior has been observed; if a lawyer seeks advice regarding impairment or impaired behavior.

- A court staff member who observes impairment conduct should consult with other staff members and the judge about whether and the best way to refer.
- An attorney, client, friend or family member should refer when repeated impairment behavior is observed or reported, or if the impaired lawyer seeks advice or help.

2. How

Whenever possible, a referral should be made privately; should be a suggestion, not a demand; should employ terms of support, assistance and understanding rather than threats; should impress upon the impaired lawyer that this is a completely confidential professional medical program that is not part of the discipline system, but a resource to help in avoiding it; that financial assistance is available if needed; should allow space and time for the lawyer to ask questions.

Whenever possible, at the referral the LAP brochure should be given to the lawyer. In most circumstances, it is best to refer one-on-one; but to let others concerned know about the referral.

It is a good idea to check back with the lawyer at reasonable intervals to see how things are going and, if appropriate, offer a reminder about the LAP program.

C. Motivational Messages

1. Audience: Lawyers who have been referred

- Avoid Discipline
- Financial Aid Is Available
- A chance to break addiction problem before it gets worse in terms of: physical health, career, family, and assets.

2. Audience: Superior and Appellate Court Judges

- Rules to ensure orderly administration of justice
 - Rule of Professional Conduct
 - Standards of judicial administration
- Courtroom control is essential

- Disrespect must not go without response
- Maintenance of professional standards
- This is an easier way out than discipline, so you can intervene earlier
- Avoid a disciplinary proceeding

3. Audience: Court Executive Officers and Presiding Judges

- All the same issues as judges
- Standards and statutes make it a duty and professional obligation to act and uphold orderly administration of justice.
- All the same issues as judges
- Calendar control
- Caseload control
- Human Resources /management issue: can protect and advise staff

4. Audience: Court Staff

- Customer service issue
- Protect the integrity of the court
 - Protect the perception and dignity of the court
 - Physically protect the judges and all in the court room
 - Know what solution/remedy exists
 - Nurturing - help out someone in trouble

5. Audience: General Public (consumers of legal services)

- Quality of service

- There's a remedy for problems
- Attorneys must be competent and not impaired (Rule of Professional Conduct 3-110 B 2)
- Refer to assist the general public in future
- Be aware that there is an expectation that an attorney will not be impaired

6. Audience: Family, associate and Colleagues

- Nurturing - You can help.

7. Audience: Lawyers referring other lawyers

- Impaired attorneys are a problem
- Upholds the integrity of the profession
- This is a process short of discipline
- This will reduce pressure on bar fees - 85% of the State Bar's budget goes to discipline
- This is preventative process that intervenes before problems start. The disciplinary system is not effective at stopping bad lawyering--only at picking up pieces
- Solos and small firm attorneys *need* this resource. They make up most of discipline system
- Financial aid is available

D. Other Content

1. Audience: Lawyers who have been referred

a. Testimonials from people who have made it back. Lawyers in recovery who have been through the discipline system will explain/show:

- Spiral of addiction

- Value of early intervention
- Horror of current discipline system
- 5 – 10 years to be reinstated from beginning to end, and maybe disbarred
- “I really wish this program had been around for me”
- An addict - “treatment really helped me”
- “Times have changed. People’s perceptions have changed. Tolerance for alcohol and drug use has diminished. So, whether you think or feel it’s ok or not, it’s not.”

b. Grabber

To show someone who appears very successful to remain credible. These are folks we want to self-refer.

Illustrate the problem. Show someone doing daily work, then what caused referrals: clerk smells the booze after lunch; lawyer late to court; misses depositions; shows inappropriate anger; other.

Show how long-term use of drugs/alcohol has a lot of health implications; DUIs are significant indicators of a problem; the addiction process; so people know it’s more than an AA group; the people you work with will be professionals.

2. Audience: Superior and Appellate Court Judges

- a.** Testimonial from judge(s) courtroom management incidents
- b.** Grabber: Courtroom control problems
- c.** Education Piece For Judges:
 - So people know it’s more than an AA group; the people you work with will be professionals
 - Spiral of addiction process

3. Audience: Court Executive Officers and Presiding Judges

- a.** Testimonial - Calendar

b. Grabber: Courtroom control problem/courtroom conduct

- Show it's harmful to administration
- It's harmful to the integrity of the process if lawyer is impaired
- Judge's time can be eaten up in these cases – they are inefficient to administer

c. Advocacy for process:

- Propose a model for courts to handle referrals from judges, executives, staff, etc. to LAP.
- Well being idea: like hospitals. Show hospital model and spiral of candidate's process.

4. Audience: Court Staff

a. Grabber: Attorney causing trouble

Problems: Show the attorney in the \$2000 suit (not a stereotype court problem): disruptive behavior in courtroom when judge is absent; security problem; yelling at clerk; smells like booze; late for court; late for pretrial statement filing; failure to comply with court rules; asking for favors.

b. Educational Piece:

- Court staff shares the duty for the orderly administration of justice. Public sees more than the judge. Affects the perception of justice
- They have a solution and they should help
- Testimonial

ATTACHMENT B

SAMPLE COST BREAKDOWN*

Item No.	Description	Itemized Rate (A)	Est. Extension (B)	Total Rate (A*B)
101	Project Manager	\$xx.xx/day	xx days	\$xx.xx
102	Producer	xx.xx/day	xx days	xx.xx
103	Director	xx.xx/day	xx days	xx.xx
104	Scriptwriter	xx.xx/day	xx days	xx.xx
	Estimated Production Management sub-total:			\$XX.XX
201	Location Production - Crew & Equipment	\$xx.xx/day	xx days	\$xx.xx
202	Studio Production - Crew & Equipment	xx.xx/day	xx days	xx.xx
203	Professional Talent	xx.xx/day	xx days	xx.xx
204	Tape Stock	xx.xx/unit	xx units	xx.xx
205	Expendables	xx.xx/unit	xx units	xx.xx
	Estimated Production sub-total:			\$XX.XX
301	Window Dubs	\$xx.xx/hour	xx hours	\$xx.xx
302	Tape Logging	xx.xx/hour	xx hours	xx.xx
303	Rough-Cut Editing	xx.xx/hour	xx hours	xx.xx
304	Visual Effects/Graphics/Titles	xx.xx/hour	xx hours	xx.xx
305	Music Fee	xx.xx/each	xx units	xx.xx
306	Final Editing & Sound Mix	xx.xx/hour	xx hours	xx.xx
	Estimated Post-Production sub-total:			\$XX.XX
401	Insurance			\$xx.xx
402	Bonding			xx.xx
403	Shipping			xx.xx
404	Duplication			xx.xx
	Estimated Administration sub-total:			\$XX.XX
	Total Tax:			\$XX.XX
	Estimated Grand Total:			\$XX.XX

*Please note: This documents is not intended to represent a complete list of potential cost elements. Include in your cost breakdown all possible cost elements for this project.